

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

Petition of Franklin W. Olin College of Engineering

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D.T.E. 01-95

**FRANKLIN W. OLIN COLLEGE OF ENGINEERING'S SUPPLEMENTAL
PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Petitioner Franklin W. Olin College of Engineering ("Olin") hereby respectfully submits its supplemental proposed findings of fact and conclusions of law and requests that the Department consider them together with Olin's previously filed proposed findings of fact and conclusions of law.

FINDINGS OF FACT

41. Babson College owned Lot 2 before, on, and after July 1, 1997. Exh. WMLP-2-7.
42. WMLP provided electricity used to power security lights and street lights for the parking lot and portion of Map Hill Drive on Lot 2 before, on, and after July 1, 1997. Exh. WMLP-1, pp. 2-4; Exh. WMLP-2, Exh. 1; Tr. 2: 237; Tr. 3: 288-89.
43. BECO has not presented any contract or other document establishing that BECO ever had or currently has an exclusive franchise right to provide electrical distribution to the entire Town of Needham. Tr. 4: 547-69.
44. WMLP would provide service to Olin from a central switchgear configuration on Babson's property in Wellesley. Exh. WMLP-1, pp. 7-8; Exh. WMLP-7, pp. 3-4; Exh. OC-2, pp. 8-9.

45. Olin would take electricity for WMLP at its switchgear in Wellesley and carry the electricity over its own lines without crossing any public ways. Exh. OC-2, pp. 8-9, 18.

46. Under the unique arrangement between Olin and Babson which includes the Collaboration Agreement, Babson would be responsible for maintaining and operating Olin's and Babson's electrical infrastructure. Exh. WMLP-1, p. 7.

47. Olin will also realize other economic and reliability benefits from this switchgear location because the infrastructure is already in place, the power for the normal and back-up services originates at different substations, and the normal supply is a dedicated underground cable supply. Exh. WMLP-1, pp. 7-8.

48. Olin would realize reliability benefits from taking service from WMLP.

49. The circuit that would provide normal service to both Babson and Olin – Line 1511 – has a capacity of 9.5 MW while the combined load of Babson and Olin is estimated to reach only 7.5 MW. Tr. 3: 328-29, 334-36; Exh. WMLP-7, pp. 3-4.

50. Even taking into account the potential revenue credit from BECo, the up-front construction cost to Olin for obtaining underground normal service from BECo would likely be well over \$1 million greater than the up-front construction cost for obtaining underground normal service from WMLP. Exh. OC-1, ¶ 4; Exh. OC-2, pp. 9-12.

CONCLUSIONS OF LAW

7. Olin's and Babson's plan to own buildings jointly in both Wellesley and Needham is in furtherance of their collaborative efforts and does not constitute

“creative conveyancing” within the meaning of *Massachusetts Electric Company*, D.T.E. 98-122, pp. 8, 11.

8. Olin’s and Babson’s Collaboration Agreement and other collaborative efforts do not constitute “creative conveyancing” within the meaning of *Massachusetts Electric Company*, D.T.E. 98-122, PP. 8, 11.

9. Olin’s purchase of Parcel A was undertaken to provide a location in Wellesley to site Olin’s switchgear (a site which would not likely be utilized at this juncture) rather than with the intent to defeat the central intent of G.L. c. 164, § 1B(a), and thus it does not constitute “creative conveyancing” within the meaning of *Massachusetts Electric Company*, D.T.E. 98-122, pp. 8, 11.

10. “Creative conveyancing” does not negate or detract from other, legitimate bases for a customer to take service from a particular electrical distribution company. *Massachusetts Electric Company*, D.T.E. 98-122, pp. 8, 11.

11. The Department’s decision in *Massachusetts Electric Company* does not purport to limit the Department’s discretion to depart from municipal boundaries in resolving service territory disputes to situations involving so-called “straddling” customers, and there are other circumstances in which facts and fairness justify departure from municipal boundaries in resolving such disputes. D.T.E. 98-122, p. 7.

12. Given the wording of G.L. c. 164, § 1B(a), which requires the Department to “define service territories for each [electric] distribution company . . . based on the service territories actually served on July 1, 1997, and following to the

extent possible municipal boundaries,” in the event of a conflict it is the municipal boundary which must give way to the territory actually served on July 1, 1997.

13. Service territories are fixed based on service territories actually served on July 1, 1997 and are not altered by such subsequent events as the transfer in ownership of real estate. G.L. c. 164, § 1B(a).

14. Assuming arguendo that Lot 2 is not in WMLP’s service area, Olin has the right to choose its electric distribution company. See *Massachusetts Electric Company*, D.T.E.98-122, p. 7.

Respectfully submitted,

**FRANKLIN W. OLIN
COLLEGE OF ENGINEERING**

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